

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC. APPLICATION No. 3408 of 1997

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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DEVENDRA GAJENDRANATH CHATURVEDI

Versus

STATE OF GUJARAT

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Appearance:

MR YN OZA for Petitioner  
MR PB BHATT APP for Respondent No. 1  
MR SV RAJU for Respondent No. 2

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 27/11/98

ORAL JUDGEMENT

Heard learned advocates Mr. Oza for the applicant and Mr. Goswami for the respondent no. 2 and learned APP Mr. P.B Bhatt for the respondent no. 1-State.

2. The present application has been preferred by the

accused in Criminal Complaint registered as DCB-16/97 in the Detection of Crime Branch, Ahmedabad. A complaint has been lodged by one Pravinbhai Ishwarbhai Arora, the respondent no. 2 herein, against one Ashok Dinanath Dubey and others for commission of an offence punishable under Secs. 343, 347, 362, 388, 34 and 506 (1) IPC and Section 27 of the Bombay Money Lenders Act, 1947. Mr. Oza has submitted that the complaint requires to be quashed against the present applicant since his name has not been reflected in the complaint and no offence is alleged to have been committed by the applicant. He has further contended that there is a pre-existing civil dispute between the applicant and the respondent no. 2 in respect of certain amount borrowed by the respondent no. 2 from the applicant and a false complaint has been lodged by the respondent no. 2 to wreak personal vengeance. Besides, the respondent no. 2 had agreed to sell his residential bungalow to the present applicant under the conditional sale deed executed on 26th January, 1996. He has, therefore, submitted that the incident stated to have happened, as described in the complaint, is inherently absurd and cannot be believed by a reasonably prudent man, and therefore also, the complaint requires to be quashed.

3. I am unable to accept either of the contentions raised by Mr. Oza. The complaint does disclose name of the applicant in no uncertain terms. Complaint itself mentions the name of the applicant herein and the role played by him in connection with the incident complained of. It, therefore, cannot be said that the name of the applicant has not been disclosed in the complaint. Besides, even if it is believed that the respondent no. 2 had executed, the conditional Sale Deed on 26.1.1996, as alleged, the said fact itself, should not falsify the complaint. Even if there were pre-existing civil disputes the act complained of in the complaint does necessarily constitute a criminal wrong which requires to be investigated and if the complaint is found to be true, requires to be proceeded further. Be it noted that though the complaint has been lodged as far back as on 8th June, 1997, in view of the interim relief granted by this Court, the same has not yet been investigated. Therefore, at this stage, it cannot be said that the complaint is false or vexatious, as is contended by Mr. Oza. I see no ground for quashing the complaint, as prayed for.

4. Application is, therefore, dismissed. Rule is discharged. Interim relief is vacated.

5. Mr. Oza requests that the interim relief granted earlier be extended for a period of six weeks so as to enable the applicant to approach the higher forum. Request is rejected.

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Prakash\*